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SIPDIS

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TREASURY FOR OFFICE OF AFRICAN NATIONS
ACCRA PASS TO USAID AND WATH
DAKAR ALSO FOR FCS

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SUBJECT: BURKINA FASO'S LONG ROAD TO LAND REFORM

OUAGADOUGO 00000653 001.2 OF 003

11. Key Points:

-- In September 2007, the Government of Burkina Faso (GOBF) finalized a draft national land reform policy that could eventually allow citizens in rural areas to obtain clear title to their land for the first time since Burkina Faso's independence in 1960.

-- In recent months, the GOBF has mounted a nationwide campaign to gain the support of rural stakeholders for its land reform policy, which could be adopted by the Council of Ministers by December 2008, and by the National Assembly in the first half of 2009.

-- Burkina Faso's \$480.9 million Millennium Challenge Compact (MCC) signed in Washington on July 17 contains a \$59.9 million land tenure security project.

12. Key Judgments:

-- Land tenure security, which would increase rural investment and productivity, is crucial to economic development in Burkina Faso, where 80 percent of inhabitants rely on subsistence agriculture.

-- Formal landownership will help reduce mounting tensions caused by the arrival of "outsiders" who are interested in obtaining rural lands.

-- Land reform would give traditionally excluded groups, such as women and the rural poor, an opportunity to own land.

End Key Points and Key Judgment

Background: The Importance of Land in Burkina Faso

13. Agriculture is the cornerstone of Burkina Faso's economy, and is dominated by small family farms of three to six hectares. More than 80 percent of the population relies on subsistence agriculture as a primary source of income.

14. In the central and northern regions of Burkina Faso, soils are badly degraded and many rural areas are characterized by high population densities (from 37 persons/sq km to 90 persons/sq km). The southern, southwestern, and western regions are generally regarded as the country's breadbasket, and receive large numbers of migrant farmers and herders. In these areas, land rights and security of land tenure are particularly important factors

influencing agricultural investment and local production. Land has also become a source of contention between locals and "newcomers" (including civil servants, politicians, and businessmen), who have appeared on the rural scene with a strong interest in acquiring land.

History of Land Reform

¶5. Since its independence from France in 1960 until the 1984, only two laws were passed -- in 1960 and 1963 -- regulating private landholdings. During that time, access to private land titles in rural areas remained limited; only 19 land titles (less than 140 ha), were granted between 1952 and 1980. In many parts of the country, land tenure was directed by the local custom of clan ownership and controlled by male heads of households. This process traditionally excluded young people, women, and farmers in impoverished regions, from land ownership.

¶6. In 1984 a major land reform law, the Agrarian and Land Tenure Reform (RAF), was passed during the "Burkina Faso Revolution" of then President Thomas Sankara. Article 1 of the RAF made an historical break with customary Burkinabe land rights by stating that "the land belongs to the State." By making all land State property, the Sankara government hoped to facilitate universal access to natural resources. In reality, diversity of customs, the verbal nature of most agreements, and persistence of other traditional land transactions limited the RAF's effectiveness. In the long run, this law created a sense of insecurity over land tenure matters and discouraged economic investment.

¶7. The 1984 RAF was amended in 1991 and 1996. The 1991 amendment partially reintroduced the notion of limited private ownership. While Article 1 of the 1991 law reaffirmed that land constituted

OUAGADOUGO 00000653 002.2 OF 003

part of the "National Estate," Article 3 stipulated that "lands forming part of the National Estate may be assigned as private property to individuals or legal entities under the conditions set out by the law. Lands thus assigned cease to be State property. Nevertheless, the government will control their use." In 1996 the RAF was once again modified in an attempt to align it with other laws ratified by the National Assembly, including 1993 decentralization legislation and the 1994 Environmental Code.

¶8. Because few farmers were aware of the 1991 and 1996 amendments, this legislation had limited impact on rural land reform. Instead of facilitating land ownership, these laws made land tenure management even more complex because it was unclear if customs authorities or the central government really controlled rural land. Many experts believed that failure of the 1991 and 1996 amendments resulted from their top-down origin, which resulted in little understood laws that ultimately were not accepted by stakeholders. Burkina Faso's incremental, evolving approach to land tenure created many misunderstandings among communities and occasionally resulted in violence and death. As conflicts between farmers and herders became more commonplace, some critics have voiced concerns over the viability of western-type tenure security in regions where nomadic herders and crop-farmers intermingle.

A New Age of Land Reform

¶9. During his six-years in office, former Minister of Agriculture, Salif Diallo, one of the primary supporters of land tenure, claimed that land issues in Burkina Faso were more related to distribution among stakeholders than a shortage of supply. According to Diallo, who left office earlier this year, the country has nine million ha of arable soil, but currently exploits only 3.5 million ha. Diallo believed that in order to setup a consensual land reform system, the GOBF had to forsake previous top-down reforms in favor of a more participatory, inclusive process, which would allow all actors more equitable access to the benefits of landownership.

¶10. Several regional workshops were held during the two years required for the GOBF to build a national consensus in support of a national land reform policy. In May 2007, former Prime Minister Paramanga Ernest Yonli - currently Burkina Faso's Ambassador to Washington -- chaired the opening ceremony of a three-day national forum, which brought together government officials, farmers' organizations, traditional chieftaincies, village associations, non-governmental organizations (NGOs), the private sector, and donors.

¶11. In September 2007 the GOBF finalized a draft national policy for rural land reform, the Politique Nationale de Securisation Fonciere en Milieu Rural (PNSFMR). This policy stated that new land reforms were necessary to ensure equitable access to land for all rural stakeholders, preserve investments, and manage potential land conflicts. In explaining the draft policy, Moumouni Ouedraogo, the Ministry of Agriculture's Director of Rural Land, described land reform in Burkina Faso as a two-phase process whose main challenge was to reconcile legality and legitimacy in a market-based environment. In the first phase, the Ministry of Agriculture would draft proposed laws and law-enforcement measures for submittal to the Government. In the second phase, the Government would examine and approve the proposals and then send them to the National Assembly for adoption.

¶12. The new reform land policy, originally scheduled for a vote before the National Assembly in March 2008, has been significantly delayed. Despite the setback, work to gain support for it among local stakeholders continues. Ouedraogo told us that 17 regional workshops organized since the adoption of the national land reform policy were proof that the process is still going well. Ouedraogo explained that these workshops were crucial in the creation of an inclusive participatory process, which targeted each of the country's 13 regions. Workshops actively involved groups potentially impacted by land reform including: religious and traditional chieftaincies, women, private stakeholders involved in agricultural production, and mayors, who would play a major role in the implementation of new land reform policies. Ouedraogo explained that remarks made during these meetings were recorded by a pool of experts who would use them to finalize land-related laws and law-enforcement measures. He added that he expected these documents to be presented to the Council of Ministers before December 2008 and that the National Assembly would review and adopt them in the first

OUAGADOUGO 00000653 003.2 OF 003

half of 2009.

¶13. The National Land Reform Policy in conjunction with pending land-related legislation will provide a foundation for the MCC Rural Land Governance Project. This \$59.9 million project will increase investment in land and rural productivity through improved land tenure security and better land management. Through assistance with institutional development and capacity building, MCC will enable the GOBF to establish legal and governmental frameworks that support long term rural land tenure.

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